



Agenda Date: 07/23/04
Agenda Item:VA

STATE OF NEW JERSEY

Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.bpu.state.nj.us

WATER AND WASTEWATER

IN THE MATTER OF THE APPLICATIONS OF MT.)
OLIVE VILLAGES WATER COMPANY, INC. AND)
MT. OLIVE VILLAGES SEWER COMPANY, INC.)
FOR APPROVAL OF AN AMENDMENT OF)
MUNICIPAL CONSENT FRANCHISES ON AN)
EMERGENT BASIS)

DECISION AND ORDER

DOCKET NOS. WE03120970
and
WE03120971

(SERVICE LIST ATTACHED)

BY THE BOARD¹:

Mt. Olive Villages Water Company, Inc. ("Mt. Olive Water") and Mt. Olive Villages Sewer, Inc. ("Mt. Olive Sewer"), (collectively the "Companies" or "Petitioner") are public utilities of the State of New Jersey subject to the jurisdiction of the Board of Public Utilities ("Board") and render water and sewer services, respectively, to the general public in a portion of the Township of Mt. Olive ("Township"), located in the County of Morris.

The Township has acquired a parcel of land adjacent to the municipal building for the expressed purpose of erecting and maintaining a public library. The Township has commenced construction of a new public library on said parcel. The Township has requested water and sewer service from Petitioner and on November 11, 2003, adopted a resolution authorizing the extension of the Petitioner's franchise consent area to include the new public library. By its petition filed with the Board on December 2, 2003, the Companies have requested the approval, pursuant to N.J.S.A. 48:2-14, to include within its franchise area the property designated on the Township's Tax Map as Block 7900 Lot 3.01.

After appropriate notice, a hearing was held on March 2, 2004, before Jay Curtis Hutchins, the Board's duly designated Hearing Examiner in this matter. At hearing, Petitioner relied on the testimony of Mr. Bruce Mueller who is the Manager of the Companies. Mr. Mueller estimated that approximately .248 million gallons per day ("mg/d") is presently dedicated to existing customers served by the Petitioner's water system. Mr. Mueller further testified that with the addition of the estimated .0013 mg/d to service the new area, the Companies would still be operating at less than the full capacity of the system. Petitioner's total daily water capacity is .455mg/d. There will be a total of 1300 gallons per day allocated for the use of the property to be added to the service area of the Companies. Additionally, the Companies indicate that

¹ Commissioner Frederick F. Butler did not participate in the deliberation or vote on this matter.

adequate wastewater treatment capacity exists to process the anticipated flows from the expanded franchise area. The treatment plant's permitted daily flow is .330mg/d while its present flow is about .250mg/d. Mr. Mueller also stated that the allocation of .0012 mg/d for the new library will have no significant impact upon the sewer system.

It was also the testimony of the witness that the current customers would not be subjected to any increases in rates for service and that the ability of the Companies to continue to provide safe, adequate and proper service would not be compromised.

The Board would note that the expanded franchise area is situated within "Planning Area 5," as designated by the State Development and Redevelopment Plan ("Plan"). As the facilities contemplated for the construction and installation within the franchise area are serving development that is not within a Plan-designated center, the Board is of the opinion that the development that is the subject of the pending petition is inconsistent with the Plan and, therefore, is inconsistent with the State's Smart Growth policy. Based on the particular facts of this case, the Board is not directing that approval of this municipal consent be withheld on smart growth grounds. However, the Board is in the process of examining all appropriate means including rulemaking proceedings consistent with the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., by which the Board can ensure compliance in future proceedings with the State Plan and the State's Smart Growth policy to the greatest extent possible within the bounds of its jurisdiction.

Based upon the foregoing and a review of the complete record in this matter, the Board HEREBY FINDS that:

1. The consent granted to the Companies by the Township is necessary and proper for the public convenience and is in the public interest;
2. Notwithstanding service to the new franchise area, the Petitioner will continue to operate at a level that is below its plants' respective capacities;
3. The cost to the Companies will be exceeded by revenues received by the Companies for services rendered in the new franchise area; and
4. The approval of the consent will not result in increased rates to current customers or compromise the Companies' ability to continue to provide safe, adequate and proper service.

Accordingly, the Board HEREBY ORDERS that the municipal consent granted to the Petitioner by the Township to include in the Petitioners' service area certain lands known as Block 7900 Lot 3.01. is HEREBY APPROVED pursuant to the provisions of N.J.S.A. 48:2-14 and 48:13-11.

The approval granted hereinabove shall be subject to the following provisions:

1. The rates for service to the Companies customers shall continue to be set out in the current tariff approved by and on file with the Board;
2. Approval of this municipal consent ordinance does not constitute Board approval of any costs or expenses associated with this franchise extension. Any determination as to the appropriateness or reasonableness of the costs and expenses related to the franchise, including, but not limited to, the cost of

construction, contributions in aid of construction, the cost of connection or any related capital improvements, and the allocation of such costs and expenses, shall be made in an appropriate subsequent proceeding;

3. This Order shall not affect or in any way limit the authority of this Board or of this State in any future petition with respect to rates, franchises, services, financing, accounting, capitalization, depreciation or any other matters affecting the Petitioner; and
4. This Order shall not be construed as directly or indirectly fixing, for any purposes whatsoever, any value of any tangible or intangible assets now owned or hereafter to be owned by the Petitioner.

DATED: *July 23, 2004*

BOARD OF PUBLIC UTILITIES
BY:

SIGNED

JEANNE M. FOX
PRESIDENT

SIGNED

CAROL J. MURPHY
COMMISSIONER

SIGNED

CONNIE O. HUGHES
COMMISSIONER

SIGNED

JACK ALTER
COMMISSIONER

ATTEST:

SIGNED

KRISTI IZZO
SECRETARY

In the Matter of the Application of Mt. Olive Villages Water Company, Inc. for Approval of
an Amendment of Municipal Consent Franchise on an Emergent Basis
BPU Docket No. WE03120970

and

In the Matter of the Application of Mt. Olive Villages Sewer Company, Inc for Approval of
an Amendment of Municipal Consent Franchise on an Emergent Basis
BPU Docket No. WE03120971

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